

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
NOVEMBER 19, 2002
7:00 P.M.**

ROLLCALL Answering rollcall were Members Hovland, Kelly, Masica and Mayor Maetzold.

CONSENT AGENDA ITEMS APPROVED Motion made by Member Masica and seconded by Member Hovland approving the Council Consent Agenda as presented with the exception of Agenda Item V.A. Traffic Safety Staff Review of November 8, 2002, and Item V.C. Change Orders for West 77th Street Improvement Contract No. 02-01 (ENG).

Rollcall:

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

RESOLUTION NO. 2002-102 PROCLAIMING EDINA FAMILY WEEK – NOVEMBER 24-30, 2002
Mayor Maetzold proclaimed the week of November 24-30 as Edina Family Week and noted that everyone has a role in making families successful and encouraged commitment to extending all families' connections that strengthen the family unit.

Member Hovland introduced the following resolution and moved its adoption:

**RESOLUTION NO. 2002-102
NATIONAL FAMILY WEEK
NOVEMBER 24 – 30, 2002**

WHEREAS, Edina recognizes strong families are at the center of strong communities; and

WHEREAS, everyone has a role to play in making families successful, including neighborhood organizations, businesses, non-profit agencies, policymakers, and of course, families themselves; and

WHEREAS, during Thanksgiving week we all should take time to honor the importance of families, and recognize the special connections that support and strengthen families year-round; and

WHEREAS, we all should recommit to enhancing and extending all families' connections; and

WHEREAS, with the assistance and resources of local agencies and organizations such as Family & Children's Service and its national partner, the Alliance for Children and Families, we can help families of all shapes and sizes create a better future for all of the Minneapolis-St. Paul area.

NOW, THEREFORE, I, Dennis F. Maetzold, Mayor of the City of Edina, do hereby proclaim November 24 through November 30, 2002, as

EDINA FAMILY WEEK

in the City of Edina. Member Kelly seconded the motion.

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

Leo Espinoza, a Community Builder for Family & Children's Service, accepted the proclamation and thanked the Council for recognizing the importance of families and their place in the community.

MINNESOTA CHEMICAL HEALTH IMPROV TROUPE PRESENTATION Kathy Iverson introduced the Minnesota Chemical Health Improv Troupe made up of Edina High School students.

The troupe presented three improvisations of situations that youth experience. Ms. Iverson explained the troupe visits schools, businesses, and churches in the hope that youth see the improv scenarios and find ways to respond when confronted by similar situations.

ATTENDANCE OF BOY SCOUT TROOP 62 ACKNOWLEDGED Mayor Maetzold introduced Boy Scout Troop 62 from Christ Presbyterian Church who were in attendance and working on their Citizenship in the Community merit badge.

***MINUTES OF THE REGULAR MEETING OF NOVEMBER 4, 2002, AND SPECIAL COUNCIL MEETING OF NOVEMBER 1, 2002, APPROVED** Motion made by Member Masica and seconded by Member Hovland, approving the Minutes of the Regular Meeting of the Edina City Council for November 4, 2002, and Special Council Meeting of November 1, 2002.

Motion carried on rollcall vote – four ayes.

RESOLUTION ADOPTED APPROVING VACATION OF UTILITY EASEMENTS LOT 3, BLOCK 1 ARROWHEAD POINTE Affidavits of Notice were presented, approved and ordered placed on file.

Presentation by Engineer

Engineer Houle explained the proposed vacation of drainage and utility easements was requested by the owner of Lot 3, Block 1, Arrowhead Pointe. The owner plans to build a home on the lot, which when platted had a 150-foot “no-build” easement. The proposed vacation would be outside of the “no-build” easement. Mr. Houle explained the lot’s topography dictated the location of the proposed home. He added the home would be built over where an existing watermain has been built. The proponent would at their expense relocate the line to a location approved by the Engineer. Mr. Houle stated that Time Warner Cable, Center Pointe Energy, Xcel Energy and Quest have approved the request. He concluded that staff recommended approval of the vacation as requested.

Member Masica asked if there were any reason not to grant the requested vacation. Mr. Houle responded that there was not and reiterated that the lot’s topography and the “no-build” easement dictated the home’s placement.

Mayor Maetzold asked if the City would incur any cost with granting the requested easement or moving the watermain. Mr. Houle said the relocation would be entirely the proponent’s cost and that there should be no cost to the City with granting this easement.

Member Hovland asked how many homes were served by the existing waterline and asked how much of an interruption in service would these homeowners experience. Mr. Houle replied that the water line served the homes on Timber Trail and all of Arrowhead Pointe.

Ron Clark, 7500 West 78th Street, Edina, representing Arrowhead Partners, and Emily and Bill Wagner, the family proposing to build the home, stated he would also be the home’s contractor. Mr. Clark said that the waterline could be relocated in one day with water service interrupted for approximately two hours.

Henry Cornelius, 6322 Timber Trail, expressed concern about the house’s driveway encroaching into the “no build” zone. He said the subject lot was too small for the house being proposed to be built. Mr. Cornelius also objected to cutting any trees from the subject lot. Staff explained that

driveways and retaining walls are allowed within a no-build zone and pointed out that the proposed house was outside of the "no-build" zone entirely.

Mayor Maetzold stated the issue in front of the Council was whether or not to grant the requested easement. He added that other issues are not material to the request.

Don Fraiser, 6305 Macintyre Point, asked about the proposed setback. He stated that he was the next-door neighbor to the proposed home and expressed concern with its proximity to the property line. Planner Larsen stated the proposed house met the normal minimum side yard setback. Mayor Maetzold added that when a house meets setback requirements, it might be sited anywhere the owner chooses on their lot.

Member Masica made a motion, seconded by Member Kelly to close the public hearing.

Member Masica asked about the potential for tree loss. Mr. Clark explained the house had been designed to fit the lot, which was narrow. The proposed house is a walk-out rambler that is shallow and long with a side loading garage. He stated there should not be substantial tree loss.

Member Hovland pointed out that Mr. Clark and Mr. Cornelius seemed to disagree on the proposed tree loss. Mr. Cornelius stated the elevation of the lot is very steep possibly between 24 to 30 feet. Member Hovland asked staff about the potential staff review of the building.

Mr. Larsen stated this house would follow the same process that all building plans do and that would be review by the building, planning and engineering departments before a building permit would be issued.

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

Member Masica introduced the following resolution and moved its adoption:

RESOLUTION NO. 2002-103

VACATION OF UTILITY EASEMENTS

LOT 3, BLOCK 1, ARROWHEAD POINTE ADDITION

WHEREAS, a motion of the City Council, on the 15th day of October, 2002, fixed a date for a public hearing on a proposed vacation of utility easements; and

WHEREAS, two weeks published and posted notice of said hearing was given and the hearing was held on November 19, 2002, at which time all persons desiring to be heard were given an opportunity to be heard thereon; and

WHEREAS, the Council deems it to be in the best interest of the City and of the public that said vacation be made; and

WHEREAS, the Council considered the extent the vacation affects existing easements within the area of the vacation and the extent to which the vacation affects the authority of any person, corporation, or municipality owning or controlling electric, telephone or cable television poles and lines, gas and sewer lines, or water pipes, mains, and hydrants on or under the area of the proposed vacation to continue maintaining the same, or to enter upon such easement area or portion thereof vacated to maintain, repair, replace, remove or otherwise attend thereto;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Edina, Hennepin County, Minnesota, that the following described public utility easements are hereby vacated effective as of November 19, 2002,

That part of the drainage and utility easement within Lot 3, Block 1, Arrowhead Pointe, according to the recorded plat, Hennepin County, Minnesota, described as follows:

Commencing at the northwest corner of said Lot 3; thence on an assumed bearing of South 14 degrees 44 minutes 00 seconds East along the southwesterly line of said Lot 3, a distance of 125.00 feet; thence North 55 degrees 04 minutes 45 seconds East a distance of 44.92 feet to the point of beginning of easement area to be vacated; thence continue North 55 degrees 04 minutes 45 seconds East, a distance of 37.12 feet; thence South 14 degrees 44 minutes 00 seconds East 12.81 feet; thence South 75 degrees 16 minutes 00 seconds West 34.84 feet to the point of beginning.

BE IT FURTHER RESOLVED that the vacation of the easement is conditioned upon the proponent move the existing water line to a place approved by the City Engineer and totally at the expense of the proponent.

BE IT FURTHER RESOLVED, that the City Clerk is authorized and directed to cause a notice of completion of proceedings to be prepared, entered in the transfer record of the County Auditor, and filed with the County Recorder, in accordance with Minnesota Statutes, Section 412.851.

Passed and adopted this 19th day of November 2002. Member Kelly seconded the motion.

Rollcall:

Ayes: Hovland, Kelly, Masica, Maetzold

Resolution adopted.

TREE REMOVAL ORDINANCE CONTINUED TO REGULAR COUNCIL MEETING OF DECEMBER 17, 2002 Planner Larsen explained the Planning Commission reviewed the proposed ordinance at their October 30, 2002, meeting, which was loosely patterned after an ordinance in place in Wayzata Minnesota.

Development and Redevelopment:

- Tree Preservation Plan
- Forester's Review
 - Minimizes tree loss
 - Ease of alteration to reduce tree loss
 - Effect of removal on property values
 - Effect of plan on wildlife habitat
 - Effect of plan on potential for soil erosion

Violations:

- Fine of 200 dollars per caliper inch lost
- Replacement trees equal to loss, or a combination

Planning Commission Recommendation:

- Do not adopt ordinance, but rely on existing ordinance
- City Code Section 1055 – Removal of Diseased Trees
- Section 830 – Regulates Tree Removal on Vacant Property
- Section 810 – Subdivision Ordinance

Reasons stated recommending not to adopt the ordinance were as follows:

1. The City does not have a problem that warrants such an ordinance
2. The City already regulates tree removal on vacant property

3. The subjective standard contained in the subdivision ordinance gives the Commission and Council more flexibility when reviewing plats
4. A new ordinance would put City staff in the position of making subjective judgments
5. The proposed ordinance would probably require additional staff

Various Council comments and concerns were voiced; 1) did Wayzata have to hire additional staff after their tree ordinance was approved, 2) how is the extent of the problem discerned, 3) would the ordinance limit cutting "x" number caliper inches of trees within a calendar year, 4) not a positive thing to add staff to monitor City trees, 5) could the current ordinance be modified to be more specific and include existing homes, 6) reluctant to micro-manage residential properties, and 7) suggested more information be brought forward on staffing.

The Council reviewed different scenarios that could create contentious situations between neighbors if the ordinance were approved as presented.

Member Kelly made a motion to continue the tree removal ordinance until the regular Council Meeting of December 17, 2002, allowing staff to be responsive to Council concerns. Member Hovland seconded the motion.

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

FIRST READING GRANTED TO ORDINANCE NO. 2002-9, AN ORDINANCE AMENDING COMMERCIAL PHOTOGRAPHY LICENSE Manager Hughes gave background into the inception of the Commercial Photography Licensing procedure. In 1996, the Council adopted an ordinance regulating commercial photography after complaints were received concerning shoots in residential neighborhoods. The shoots ranged from single day, locally produced advertising spots to weeklong, feature film productions.

Mr. Hughes said in accordance with Council direction, an Ordinance Amendment with respect to motion pictures and commercial photography was drafted. The Amendment provides the following:

1. The City Manager may issue a permit that includes outdoor filming and outdoor artificial lighting after 10:00 P.M. providing that property owners within 200 feet grant written approval for such activities; and
2. The City Manager may issue a commercial photography permit for the same general area not more than once every 90 days. The current ordinance provides that the manager may not issue such a permit more than every 180 days.

Mr. Hughes said the proposed changes reflect the recommended revisions by the Minnesota Film Board. Staff recommends the Council grant First Reading.

William Horn, 4511 Browndale Avenue, voiced his disapproval with the proposed change to the Commercial Photography Ordinance. He reminded the Council the reason the Ordinance was written initially was due to citizen complaints and he warned the proposed revisions would restore the conditions that led to those complaints. Mr. Horn provided a letter stating his disapproval that was included in the Council packet.

Following a Council discussion, **Member Kelly made a motion, seconded by Mayor Maetzold granting First Reading to Ordinance No. 2002-08, An Ordinance Amending Commercial**

Photography License. Following additional discussion regarding the notification distance, potential disruption of various neighborhoods and parking, **Member Masica offered a friendly amendment to Member Kelly's motion deleting Section 2 of the proposed ordinance amendment.** Member Kelly accepted the friendly amendment. **Member Hovland offered an additional friendly amendment increasing the area from which potential film makers must gain approval for late night shooting to 300 feet.** Member Kelly accepted the amendment.

Rollcall:

Ayes: Hovland, Kelly, Masica, Maetzold

First Reading Granted.

***BID AWARDED FOR REPLACEMENT GOLF CARS FOR BRAEMAR GOLF COURSE** Motion made by Member Masica and seconded by Member Hovland for award of bid for eighteen replacement golf cars for Braemar Golf Course to recommended sole bidder, E-Z-Go Textron, Inc., at \$44,370.00.

Motion carried on rollcall vote – four ayes.

TRAFFIC SAFETY STAFF REVIEW APPROVED FOR NOVEMBER 8, 2002 Member Hovland removed the Traffic Safety Staff Review for November 8, 2002, from the Consent Agenda for further information about Section B.1 of the Traffic Safety Minutes and asked the definition of “clear view”. Mr. Hughes explained clear view is measured back 25 feet for each leg of a triangle from the intersection and within the area nothing can exceed 30 inches in height. Mr. Hovland said he understood the resident in question would need to remove a hedge.

Member Hovland questioned Section B.2, the denial of the STOP sign at Olinger Road. He questioned whether speeds could be slowed on Vernon Avenue North down Olinger Road to Olinger Boulevard with installation of speed bumps. Coordinator Bongaarts said speeds should be slowed with the implementation of the selective enforcement by the Police Department but the one thing that would be most beneficial would be a sidewalk.

Member Hovland made a motion approving the Traffic Safety Staff Review of November 8, 2002, Section A:

- 1. Recommendation by staff that 6300 block of Valley View Road be referred to Police Department for selective speed enforcement; and**
- 2. Recommendation by staff that Hennepin County and Metro Transit be contacted to request relocating the southbound France Avenue bus stop from southwest corner of West 50th Street to 5020 France Avenue, in front of Arby's Restaurant; and**
- 3. Recommendation by staff to adopt temporary “20 MPH” Work Zone Speed Limit and a “Fines Double Within a Work Zone” regulation during the duration of the reconstruction of City Hall and Police Station along Eden Avenue from Willson Road and Grange Road to West 50th Street;**

Section B and Section C. Member Kelly seconded the motion.

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

***RESOLUTION NO 2002-101 APPROVED, DESIGNATING MANAGER TO LOWER SPEED IN WORK ZONES** Member Masica introduced the following resolution seconded by Member Hovland:

**RESOLUTION NO. 2002-101
A RESOLUTION AUTHORIZING THE CITY MANAGER**

**TO REDUCE SPEED LIMITS WITHIN ACTIVE WORK ZONE AREAS
ON LOCAL ROADWAYS**

WHEREAS, for worker safety the City of Edina is in need from time to time to reduce regulatory speed limits on local roadways on which construction, reconstruction or repair activities are occurring; and

WHEREAS, under Minnesota Statutes Section 169.14, subd. 5d, the City of Edina is authorized to reduce speed limits in active work zones on local roadways; and

WHEREAS, under Minnesota Statutes Section 169.14, subd. 5d, the City of Edina is authorized to double fines for violating any regulatory speed limits in work zones.

NOW, THEREFORE, the City Council of the City of Edina, Minnesota, authorizes the City Manager to reduce regulatory speed limits within active work zones and impose double fines for vehicles violating the reduced regulatory speed limits.

Adopted this 19th day of November 2002.

Motion carried on rollcall vote – four ayes.

CHANGE ORDERS APPROVED FOR WEST 77TH STREET IMPROVEMENTS CONTRACT NO.

02-01 ENG Member Hovland removed the Change Orders for West 77th Street Improvements, Contract No. 02-01 for the Engineering Department from the Consent Agenda for further information. Mr. Houle explained the total change orders to date will increase the contract amount more than ten percent, requiring Council approval. The total increase is \$337,000.00 while the original contract for the project is \$1,994,734.25. He reminded the Council that the cost of this project is funded by gas tax funds as provided by the Municipal State Aid Program and by special assessments.

Member Hovland voiced concern with the impact of the additional assessments. Mr. Houle commented that the term of the assessment could be extended to lessen the impact. Mr. Hughes noted this situation will be played out in other areas in the City in the future because of the deterioration of the City's infrastructure.

Member Hovland made a motion approving the Change Orders for West 77th Street Improvements, Contract No. 02-01, (Engineering) in the amount of \$337,000.00. Member Masica seconded the motion.

Ayes: Hovland, Kelly, Masica, Maetzold

Motion carried.

***DECEMBER 3, 2002, HEARING DATE SET FOR 2003 LIQUOR FEES Motion made by Member Masica and seconded by Member Hovland setting December 3, 2002, as hearing date for the 2003 liquor fees.**

Motion carried on rollcall vote – four ayes.

CONCERNS OF RESIDENTS Addie Fitzsimmons, 5025 Yvonne Terrace, again voiced concern with drainage issues caused by earth displacement due to a neighbors' addition. She read a four-page letter restating the scenario and again voiced her concern.

Member Kelly indicated that while the Council is sympathetic, there was only one thing that the Council could do and that would be to write a letter to the Dickey's requesting them to install drain tile to the street. He further defended Mr. Hovland and Mrs. Masica from the comments made by Ms. Fitzsimmons.

***CONFIRMATION OF CLAIMS PAID** Member Masica made a motion and Member Hovland seconded the motion approving payment of the following claims as shown in detail on the Check Register dated November 6, 2002, and consisting of 32 pages: General Fund \$227,414.26; CDBG Fund \$4,065.00; Communications Fund \$24,114.31; Working Capital Fund \$67,079.22; Construction Fund \$9,534.50; Art Center Fund \$11,420.67; Golf Dome Fund \$576.54; Aquatic Center Fund \$4,273.79; Golf Course Fund \$3,382.25; Ice Arena Fund \$4,323.61; Edinborough/Centennial Lakes Fund \$6,540.73; Liquor Fund \$259,651.32; Utility Fund \$12,712.15; Storm Sewer Fund \$14,295.37; **TOTAL \$649,383.72;** and for approval of payment of claims dated November 13, 2002, and consisting of 30 pages: General Fund \$262,357.15; CDBG Fund \$13,248.00; Communications Fund \$17,122.79; Working Capital Fund \$91,442.61; Construction Fund \$6,641.05; Art Center Fund \$2,520.42; Golf Dome Fund \$1,916.80; Aquatic Center Fund \$1,169.86; Golf Course Fund \$14,540.22; Ice Arena Fund \$20,149.34; Edinborough/Centennial Lakes Fund \$15,146.46; Liquor Fund \$106,800.16; Utility Fund \$42,611.06; Storm Sewer Fund \$606.05; Recycling Fund \$30,418.60; Payroll Fund \$465,000.00; **TOTAL \$1,091,690.57.**

Motion carried on rollcall vote – four ayes.

TRUTH IN TAXATION PREVIEW PRESENTED Mr. Hughes informed the Council that according to Hennepin County analysis, 2003 taxes for the median valued Edina home would be 13.6 percent higher than in 2002. By comparison, tax in the surrounding communities ranged from 14.1 percent in Eden Prairie to 18 percent in Hopkins. Some communities will experience higher increases because of recently approved school operating referenda.

Tax increases resulted from spending and levy decisions made principally by the City, County and school district and non-spending factors that adjust the tax burden shared by different types of properties. Non-spending factors in Edina include flat commercial and industrial property valuations, a reduction in the classification rate for apartments and change in limited market value. Market Value Homestead Credit comprises a smaller percentage of the tax bill.

Mr. Hughes noted as speculated, property tax relief for taxes paid in 2002 was short-lived – nearly 64 percent of single-family homes in Hennepin County will receive a tax increase of over 10 percent with some as high as 30 percent.

Cities should anticipate larger increases next year if the State reduces local government aids or Market Value Homestead Credit payment to cities, as the tax burden shifts from State-provided funds to local sources that are principally property tax related.

Mr. Hughes presented a graphic of the Historical Truth in Taxation Proposed Tax Comparison from 1996 pay 1997 to date as provided by the Hennepin County Assessors Office.

No formal Council action was taken.

There being no further business on the Council Agenda, Mayor Maetzold declared the meeting adjourned at 9:25 P.M.

City Clerk